IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE B.PRAKASH RAO**

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**WRIT PETITION NO : 12360 of 1994**

Between:

1. P. Mohan Rao, **(DIED)**

son of late Venkat Ramarao
resident of Hanmakonda, Warangal District.

2. Smt. P. Sarswathi, 67 years,

w/o. late P. Mohan Rao, Occ: housewife,

3. P. Jayanth Kumar, 48 years,

s/o. late P. Mohan Rao, Occ: Agriculture

4. P. Ravi Kumar, 46 years,

s/o. late P. Mohan Rao, Occ: Agriculture

5. P. Krishna Rao, 44 years,

s/o. late P. Mohan Rao, Occ: Agriculture

all R/o. Subedari, Hanmakonda,

Warangal District.

(Petitioners2 to 5 are brought on record as

LR's of the deceased petitioner as per

Court Order dated 16-07-2004 in WPMP

No.15225 of 2004) **..... PETITIONERS**

AND

1 The State of A.P. rep. by its Secretary Revenue Department

(Urban Land Ceiling) Secretariate Buildings, Hyderabad.

2 The Commissioner of Land Reforms & Urban Land Ceilings,

Nampally Station Road, Hyderabad.
3 The Special Officer and Competent Authority,

Urban Land Ceilings, Warangal. **.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records connected with passing of orders by 3rd respondent in U.C. Case No. A3/106/76 dated 6.4.1982 and the orders of the 2nd respondent in C.No.UC2/3359/82 dated 18.10.1993 and the file in Memo No.9033/UC.II(2(/94.1 confirmed by the 1st respondent and quash the same by issuing an appropriate Writ, order or direction particularly in the nature of Writ of Certiorari and pass such other orders.

**Counsel for the Petitioner: MR.K.MAHIPATHI RAO**

**Counsel for the Respondents: G.P. FOR LAND CEILING**

**G.P. FOR REVENUE**

**The Court made the following:**

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W.P.No.12360 of 1994

**ORDER**:

The petitioner, who is one of the declarant under the provisions of Urban Land (Ceiling and Regulation) Act, 1976, filed this writ petition *inter alia* assailing the order passed by the Commissioner of Land Reforms & Urban Land Ceilings, Hyderabad-2nd respondent in C.No.UC2/3359/82, dated 18-10-1993 and also the order passed by the Secretary, Revenue Department-1st respondent in Memo No.9033/UC.II(2)/94-1, dated 08-06-1994 in rejecting the revision petition filed by the petitioner.

The grievance of the petitioner is that though the petitioner has several grounds for the benefit of exemption of the land under the provisions of Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act') the second respondent without considering the same, simply remanded the matter to the third respondent for enquiry and disposal on the computation of house property under the Act. Aggrieved by the same, he has preferred the revision before the 1st respondent and the 1st respondent by order dated 08-06-1994 rejecting the revision on the ground that the petitioner would have to seek a remedy in a court of law since no revision petition

lies before the Government under Section 34 of the Act.

He further submits that his case is covered by the decision of this Court in ***Venkata Reddi Vs. Commissioner of Land Reforms & Urban Land Reforms & Urban Land Ceilings*** wherein it was held that even if the land is kept fallow, it must be treated as agricultural land unless contrary is proved. Hence, he submits that the primary authority as well as the appellate authority failed to consider the case of the petitioner that the land in Sy.Nos.395 & 396 Waddepally measuring 9308 M.Ms. is his ancestral property and his four major sons have 1/5$^{th}$ share each in the said property.

Heard learned counsel for the petitioner and learned Government Pleader for Revenue.

Having heard the learned counsel on either side and also on perusal of the entire material available on record it is to be seen that the petitioner raised substantial questions which require detailed enquiry and consideration by the appellate authority and therefore there would be no impediment in remanding the matter *de nova* for fresh enquiry by the appellate authority.

Accordingly the Writ Petition is allowed setting aside the impugned order dated 18-10-1993 passed by the 2$^{nd}$ respondent-Commissioner of Land Reforms & Urban Land Ceilings, Hyderabad, and again the matter is remanded to the 2$^{nd}$ respondent and he is directed to conduct fresh enquiry and pass appropriate orders after giving due notice and opportunity to both sides in taking into all objections of the petitioner. It shall be open for the petitioner herein to substantiate his claim by adducing any other evidence both oral and documentary, which will be considered and passed appropriate orders. No costs.

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B. Prakash Rao,J.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Friday, the Sixteenth day of July, Two Thousand and Four.

16th July, 2004.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary Revenue Department

(Urban Land Ceiling), Govt. of A.P.,

Secretariate Buildings, Hyderabad.

2 The Commissioner of Land Reforms & Urban Land Ceilings,

Nampally Station Road, Hyderabad. (With records)

3 The Special Officer and Competent Authority,

Urban Land Ceilings, Warangal.

4. Two CCs each to Govt. Pleader for Ceiling & Revenue,

High Court Buildings, Hyderabad (OUT).

5. Two CD copies.